THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 12044 of 2006

Dated: 19.06.2006

Between:

The Depot Manager, A.P.S.R.T.C., Visakhapatnam (Rural).

..... PETITIONER

AND

The Depot Secretary, APSRTC Staff and Workers Federation, Regd. No.B-891, Simhachalam Depot, Visakhapatnam, representing Sri G.S. Demudu and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.12044 of 2006

Order:

Assailing the award dated 28.06.2004 passed by the Labour Court, Visakhapatnam, in I.D. No. 161 of 2002, setting aside the punishment of reduction of annual increment for a period of two years with cumulative effect besides recovery of an amount of Rs.1000/- towards damages, fixed on respondent No.1-workman, the petitioner-Corporation, filed the present writ petition.

Learned Standing Counsel for the petitioner-Corporation mainly contends that the accident had occurred due to rash and negligent driving and lack of anticipation on the part of respondent No.1-workman, and so he is responsible for the alleged accident. He further contends that the Labour Court, without appreciating the evidence on record, erroneously passed the impugned award, hence, the same is liable to be set aside.

On the other hand, learned counsel for respondent No.1 submits that the Labour Court, on appreciation of the entire evidence on record, rightly passed the award, hence, no reasons to interfere with the award passed by the Labour Court.

Heard the learned Standing Counsel for the petitioner-Corporation, learned counsel for respondent No.1-workman and perused the award of the Labour Court.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and

thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

A perusal of the award of the Labour Court clearly indicates that initially the management, without conducting any domestic enquiry, withheld the increment of the workman, and on realizing its mistake, the management to get over the judgment of this Court in

Sk. Masthan vs. managing Director, APSRTC and others[1], wherein it was held that withholding of annual increment with cumulative effect is a major punishment, and without conducting a domestic enquiry the same cannot be imposed, had let in evidence before the Labour Court. The award of the Labour Court further discloses that the witness-MW-1, examined by the management, is not an eyewitness to the incident, he gave evidence merely based on the record. The Labour Court, on considering the said circumstances and on appreciation of the entire evidence, both oral and documentary, available on record, found that the petitioner-Corporation failed to prove the guilt of respondent No.1-workman, and that the action of the petitioner-Corporation in imposing the punishment of reduction of annual increment for a period of two years with cumulative effect besides recovery of an amount of Rs.1000/- towards damage caused to the vehicle, on respondent No.1-workman was not justified. Holding so, the Labour Court, passed the impugned award setting aside the said punishment imposed on respondent No.2-workman by the petitioner-Corporation, and no exception can be taken thereto.

The award of the Labour Court, judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India, does not call for interference, for the petitioner-Corporation failed

to point out any infirmities.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 19.06.2006
Nsr/Ksr

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1 1992 (2) ALT 109